

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA8 DISTRICT COUNCIL 16 NORTHERN
9 CALIFORNIA HEALTH AND WELFARE
TRUST FUNDS,

No. C-10-04765 SBA (EDL)

10 Plaintiffs,

**ORDER GRANTING PLAINTIFF'S
REQUEST FOR ISSUANCE OF WRIT OF
EXECUTION**

11 v.

12 S D FLOORING,

13 Defendant.

15 On January 5, 2011, Judge Armstrong entered a judgment pursuant to stipulation in favor of
16 Plaintiffs in the amount of \$45,950.87. See Request for Issuance of Writ at Ex. A. Under the
17 stipulated judgment, Defendant was required to, among other things, make monthly payments of
18 \$3,228.00 beginning on December 15, 2010 and continuing until November 15, 2011. Id. at ¶ 4(a).
19 The stipulated judgment also conditionally waived liquidated damages upon timely compliance with
20 the terms of the stipulation. Id. at ¶ 4. Further, the stipulation required Defendant to remain current
21 with ongoing monthly contributions. Id. at ¶¶ 7, 9.

22 Plaintiff has now filed a Motion for Issuance of Writ of Execution, arguing that Defendant is
23 in default of the terms of the stipulation because it failed to pay October 2010 contributions in the
24 amount of \$62,326.58, and because it did not timely pay the November 2010 contributions of
25 \$48,946.02. See Request for Issuance of Writ at Ex. B, C. Plaintiffs seek a writ of execution
26 pursuant to paragraph twelve of the stipulated judgment consisting of: (1) the balance of the
27 stipulated judgment of \$28,947.05; (2) the liquidated damages that were conditionally waived of
28 \$7,598.27; (3) interest on those amounts of \$40.83; (4) October 2010 contributions, liquidated
damages, interest of \$75,278.56; (5) November 2010 liquidated damages and interest of \$9,963.53;

1 (6) fees of \$2,685.00 and (7) costs of \$75.00. The total amount of the requested writ is \$124,588.24,
2 plus interest from the date of the filing of the Motion for Issuance of Writ of Execution. In the
3 stipulated judgment, the parties expressly consented to the jurisdiction of a magistrate judge for
4 issuance of a writ of execution. Id. at ¶ 12(b).

5 The stipulated judgment provides that upon Defendant's default of the terms of the
6 judgement, a writ of execution may issue without further notice to Defendant. See Request for
7 Issuance of Writ Ex. A at ¶ 12(b). The stipulated judgment also provides that the writ can be in the
8 amount of the unpaid balance of the judgment "plus any additional amounts under the terms herein."
9 See id. Here, Plaintiffs have established that Defendant has defaulted on the term of the stipulated
10 judgment requiring that it remain current in its contributions. See id. ¶ 9. Further, Plaintiffs have
11 adequately established the additional amounts due under the stipulated judgment.

12 Accordingly, the clerk shall issue a writ of execution in the amount of \$124,588.24, plus
13 interest in the amount of \$407.68 for the period from January 27, 2011 through the date of this Order
14 for a total of \$124,995.92, plus 5% per annum interest on the Stipulation balance and contributions
15 (\$91,273.63), which is \$12.50 per diem, and 0.26% per annum interest on the other amounts due
16 (\$33,314.61), which is \$0.24 per diem, from February 28, 2011 until satisfied.

17 **IT IS SO ORDERED.**

18 Dated: February 28, 2011

Elizabeth D. Laporte
19 ELIZABETH D. LAPORTE
United States Magistrate Judge

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